

OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ORIGINAL

Elgiloy Limited Partnership

Complainant

v.

Commonwealth Edison Company

Respondent

SEP 7 10 42 AM '01

CHIEF CLERK'S OFFICE

Docket No. 01-0583

FORMAL COMPLAINT AS TO BILLING IN HAMPSHIRE, ILLINOIS

1. The name, address, telephone number, facsimile number and e-mail of the Complainant is:

Tom Piha, Plant Manager
Elgiloy Limited Partnership
1 Hawk Road
Hampshire, Illinois 60140
Ph: (847) 683-0500
Fax: (847) 683-4475
E-mail: tomp@combmet.com

2. The name, address, telephone number, facsimile number and e-mail of the Complainant's attorney is:

David F. Boehm, Esq.
BOEHM, KURTZ & LOWRY
36 E. Seventh Street, Suite 2110
Cincinnati, Ohio 45202
Ph: (513) 421-2255
Fax: (513) 421-2764
E-Mail: dboehmlaw@aol.com

3. The name and address of the respondent is:

Commonwealth Edison
17028 State Route 23
DeKalb, Illinois 60115

4. Complainant does not agree to accept service by electronic means.
5. Elgiloy Limited Partnership ("Elgiloy") is a manufacturer of high quality stainless steel, flat-rolled products with its plant in Hampshire, Illinois. Elgiloy is and has been a customer of Commonwealth Edison Company ("ComEd") since 1997. It was originally served on Rate 6L with a 19(D) Industrial Development Rider. On April 16, 2001 ComEd informed Elgiloy that through a series of errors admittedly committed by ComEd, Elgiloy had been underbilled by ComEd over a two-year period by \$623,149.52. ComEd now demands that Elgiloy pay it \$623,149.52, which represents a retroactive increase over the two-year period of over 50%. The litany of mistakes claimed by ComEd and the alleged consequences are as follows:
 6. Prior to 1/1/99, the average monthly power bill of Elgiloy was about \$60,000. The tariff under which power was billed was 6L (Large General Service) with an Industrial Development discount under Rider 19(D). The meter or billing constant used by ComEd to determine Elgiloy's bill was 1.44. The billing constant is a multiplier used by utilities to derive the correct data from the watt-hour service meters given the type of transformers used. The meter number was G091467690. According to ComEd, this was all as it should be.
 7. ComEd alleged that in April of 1999, it erroneously began to bill Elgiloy under Rate 6TOU, a time-of-day rate for which Elgiloy allegedly is not eligible, but which resulted in a lower power bill for Elgiloy.
 8. On 7/21/99 the meter at Elgiloy was exchanged. The new meter is G091489218. While ComEd now claims the meter is accurate and was properly installed, it maintains that upon the installation of the meter, the meter constant "incorrectly defaulted" to 1.00, instead of 1.44, allegedly causing power to be under-recorded.

9. On 12/13/99, a ComEd account manager allegedly discovered that Elgiloy was being billed on the wrong tariff (6TOU) and had it placed on 6L again. Elgiloy was not informed of this and no request for back bills or repayment was made at that time.
10. On 4/17/00 the alleged incorrect meter constant was discovered, but instead of being reset from 1.00 to 1.44, ComEd allegedly set the constant to .72 and recalculated bills back to 8/10/99 using the allegedly more erroneous constant of .72.
11. On 4/16/01 Elgiloy officials received a phone call from a ComEd account representative explaining that the power bill of \$693,000 received by Elgiloy the day before was not a mistake, but included about \$615,879.14 for previously unbilled or misbilled power.
12. On 4/17/01 ComEd stated that the cause of the error was a meter which was not installed properly and was running too slow.
13. In subsequent meetings, conversations and correspondence, ComEd changed its position. Its claim is not now based on a slow meter. It's current position is that its claim is \$623,149.52 and is based on: a) the erroneous use of a meter constant of 1.00; b) the subsequent erroneous use of a meter constant of .72; and c) billing Elgiloy on the wrong tariff rate.
14. Discussions, meter testing and negotiations have not demonstrated that ComEd's claim is legitimate and supported by law. Accordingly, Elgiloy disputes ComEd's claim for \$623,149.52.
15. On August 3, 2001, Elgiloy received Final Notice Prior to Disconnection from ComEd notifying the former that its electric service will be shut off on or after August 13, 2001 because \$623,149.52 is past due.

16. Elgiloy complains that in addition to the many errors, committed or alleged by ComEd, ComEd has violated the following provisions of the Illinois Administrative Code in the following respects:
- a) §410.155 – ComEd failed to conduct a post-installation inspection of meter G091489218 within 90 days after installation or, in the alternative;
 - b) former §410.220(d) – ComEd failed to conduct the initial test of meter G091489218 within 90 days after installation;
 - c) §410.210(a)(1) – ComEd consistently failed to show the meter constant applicable to its meter on the bills to Elgiloy;
 - d) §410.120(b) – ComEd failed to mark the billing multiplier on the front of the meter(s) and identify it as the billing multiplier at the time of installation.
17. If a hearing shows that the meter(s) were defective and/or running slow as was first reported by ComEd, §410.200(h)(1) provides that ComEd may not bill for the under-registered power because of its failure to comply with §410.155 or former §410.220(d) as aforementioned.
18. If a hearing shows that ComEd consistently used the incorrect billing constant, its failure to comply with §410.210(a)(1) and §410.210(b) should estop ComEd from now asserting such a claim.
19. Because of the many errors and statutory violations of ComEd, Elgiloy has been prejudiced and damaged in the following respects:
- a. Decisions to purchase and improve buildings and equipment were made on cost and profit assumptions which, if ComEd's allegations are true, were false and misleading. These expenditures cannot be recovered;
 - b. Product pricing was done on the basis of cost and profit assumptions which, if ComEd's allegations are true, were false and misleading. These products cannot be repriced, as ComEd retroactively seeks to reprice Elgiloy's energy.

Statement of Compliance

20. Complainant states that it has complied with 83 Illinois Administrative Code §280.170 by filing an informal complaint with the Consumer Assistance Section which was not resolved.

WHEREFORE, Elgiloy requests that a determination be made that:

- a) ComEd is not entitled to rebill Elgiloy for electric service in the amount of \$623,149.42;
- b) ComEd may not disconnect Elgiloy's electric service; and
- c) Any and all other remedies that are found appropriate in the circumstances.

Respectfully submitted,



David F. Boehm, Esq.,
BOEHM, KURTZ & LOWRY
36 East Seventh Street
Suite 2110
Cincinnati, Ohio 45202
513-421-2255

**ATTORNEY FOR ELGILOY LIMITED
PARTNERSHIP**

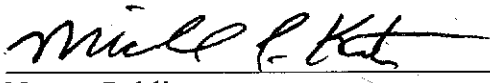
VERIFICATION

I, David F. Boehm, first being duly sworn, say that I have read the above petition and know what it says. The contents of this petition are true to the best of my knowledge.



David F. Boehm, Esq.

Subscribed and sworn/affirmed to before me this 6 day of September, 2001.



Notary Public
MICHAEL L. KURTZ, Attorney at Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration
Date: Section 147.03 O.R.C.